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s/ *John H. Stanton*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application :

PAUL WARREN POOLE ET AL. :

Ser. No. 09/607,481 :

Examiner: Miggins, Michael C.

Filed: June 30, 2000 :

Group Art Unit: 1772

For: **ACOUSTICAL AND**
THERMAL INSULATOR :APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appeal is taken from the final rejection of claims 1-7 and 9-19 on
February 4, 2004. A timely Notice of Appeal was filed on May 4, 2004. The
fee for submitting the Appeal Brief may be debited from Deposit Account 50-
0568, along with any other fees required.

I. REAL PARTY IN INTEREST

The inventors assigned 100% of their interest in the present invention to Owens Corning, 2790 Columbus Road, Route 16, Granville, Ohio 43023-1200.

II. RELATED APPEALS AND INTERFERENCES

The appellants, appellants' legal representative and the assignee know of no other appeals or interferences which will directly affect, or be directly affected by, or have a bearing on the Board's decision.

III. STATUS OF THE CLAIMS

Claims 1-7 and 9-19 remain pending in the application and are the subject of this appeal. Claims 8 stands cancelled from the application.

Claims 1, 2, 6, 9-10, 12, and 14-17 are finally rejected under 35 U.S.C. Section 103(a) as allegedly being unpatentable over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,985,106 to Nelson.

Claims 3-5 are finally rejected under 35 U.S.C. Section 103(a) as allegedly being unpatentable over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,985,106 to Nelson and further in view of U.S. Patent No. 4,438,166 to Gluck et al.

Claim 7 is finally rejected under 35 U.S.C. Section 103(a) as allegedly being unpatentable over U.S. Patent No. 6,093,481 to Lynn et al., in view of

U.S. Patent No. 4,985,106 to Nelson and further in view of U.S. Patent No. 5,366,678 to Nomizo et al.

Claims 11 and 13 are finally rejected under 35 U.S.C. Section 103(a) as allegedly being unpatentable over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,985,106 to Nelson and further in view of U.S. Patent No. 6,096,416 to Altenberg.

Claims 18-19 are finally rejected under 35 U.S.C. Section 103(a) as allegedly being unpatentable over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,981,106 to Nelson.

IV. STATUS OF AMENDMENTS

The form of the claims is the same as before the Office Action of February 4, 2004.

V. SUMMARY OF THE INVENTION

The present invention relates generally to an improved acoustical and thermal insulator. In one embodiment, the insulator 10 comprises a multi-layer composite including: (a) a first fibrous facing layer 12 (page 7, line 19); (b) a fibrous polymer based blanket layer 14 (page 8, line 20); and (c) an insulation insert 16 encapsulated by the polymer based blanket layer 14 and the first facing material layer 12 (page 7, lines 14-15). The insert 16 may comprise a material selected from a group consisting of fiberglass, foam, polymer based

blanket material, natural fiber based blanket material and combinations thereof (page 9, lines 16-18).

In one contemplated use in a vehicle, the insulator 10 mounts with the first facing layer 12 closest to a heat source, such as a catalytic converter (page 3, lines 21-24). As a result, heat reflects away from the passenger compartment without being absorbed by the insulator 10 (page 9, second full paragraph at lines 12-25). The facing layer 12 also protects the remaining portions of the insulator 10, including the fibrous blanket layer 14, from high temperatures (page 7, lines 16-24).

In one embodiment of the insulator 10, the first facing layer 12 is constructed from a heat reflective metallic foil having a thickness of between substantially 0.5-5.0 mil (page 7, lines 20-21). This foil may include a reinforcement 18 (page 7, line 26). The reinforcement 18 may be selected from a group of materials consisting of a fibrous scrim, a fibrous mat and a fibrous web (page 8, lines 1-2). In one particular embodiment, the reinforcement 18 comprises glass fiber threads arranged in a criss-cross pattern (page 8, lines 3-4).

The fibrous polymer based blanket layer 14 is preferably selected from a group of materials consisting of polyester, polyolefin, polyethylene, cotton shoddy, nylon, rayon, acrylic, natural fibers including kenaf and hemp, and

combinations thereof with and without melt blown microfibers (page 9, first full paragraph). Moreover, this blanket layer 14 preferably includes a relatively high density section and a relatively low density section (page 11, lines 9-11).

Turning to the insulation insert 16, it may be positioned only at selected locations in the insulator (page 9, lines 12-15). This is done to provide shielding of heat sources and/or sound sources (*ibid.*). Such selective positioning also facilitates accounting for "hot spots" of increased heat and sound emanating from an adjacent object (*ibid.*)

In addition to the first facing layer, a second facing layer 22 may be provided. This second facing layer 22 may comprise a scrim (page 10, lines 26-27) or may be fabricated of a group of materials consisting of polyester, polypropylene, rayon, nylon, glass, metal foil and mixtures thereof (page 10, lines 19-21). One or both of the first and second facing layers 12, 22 may be treated with a fire retardant, a biocide and/or a colorant (page 10, lines 22-25).

The first facing layer 12 may include a heat activated adhesive to secure it to the fibrous polymer based blanket layer 14 (page 8, lines 19-21). The heat activated adhesive is preferably selected from a group of materials consisting of thermoplastic sheet, thermoplastic web, hot melt, latex and heat activated resins (page 8, lines 22-26). Similarly, the second facing layer 22 may include

a heat activated adhesive to secure it to the fibrous polymer based blanket layer 14, with the adhesive selected from this same group of materials (page 11, lines 2-8).

In another embodiment of the insulator 10, the first facing material layer 12 and fibrous polymer based blanket layer 14 encapsulate adjacent first and second inserts 16 (page 9, lines 20-25 and Figure 2). Advantageously, the provision of multiple inserts 16 in a single insulator 10 allows for selective positioning to deal with different "hot spots" (*ibid.*). The insert 16 may also include at least one recessed portion adapted for matching with an adjacent structure for which enhanced protection from heat or sound transmission is desired (Figures 1 and 2).

VI. THE ISSUE

The Board must first determine whether the subject matter of claims 1, 2, 6, 9-10, 12, 14-19 is obvious under 35 U.S.C. Section 103(a) over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,985,106 to Nelson.

The Board must determine whether the subject matter of claims 11 and 13 is obvious under 35 U.S.C. Section 103(a) over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,985,106 to Nelson, further in view of U.S. Patent No. 6,096,416 to Altenberg.

The Board must also determine whether the subject matter of claims 3-5 is obvious under 35 U.S.C. Section 103(a) over U.S. Patent No. 6,093,481 to Lynn et al. in view of U.S. Patent No. 4,985,106 to Nelson and further in view of U.S. Patent No. 4,438,166 to Gluck et al.

Finally, it must be determined whether the subject matter of claim 7 is obvious under 35 U.S.C. Section 103(a) over U.S. Patent No. 6,093,481 to Lynn et al., in view of U.S. Patent No. 4,985,106 to Nelson and further in view of U.S. Patent No. 5,366,678 to Nomizo et al.

VII. GROUPING OF CLAIMS

Claims 1, 2, 6, 9-10, 11-13, and 14-17 stand or fall together. Claims 3-5, 7, 18, and 19 all stand alone.

VIII. ARGUMENT

As finally rejected, claim 1 describes an acoustical and thermal insulator comprising a multilayer composite including (a) a first facing material layer, (b) a fibrous polymer based blanket layer, and (c) an insulation insert encapsulated by the fibrous facing material layer and the fibrous polymer based blanket layer. Despite the Examiner's assertion to the contrary, this structure is simply not taught or suggested by the combination of U.S. Patent No. 6,093,481 to Lynn et al. and 4,985,106 to Nelson et al. Therefore, these

references simply cannot render the claimed invention "obvious" under Section 103(a) and reversal of the rejection made is appropriate.

By its own express terms, the primary reference to Lynn et al. relates solely to "... *foam filled* sheet products ... and more particularly ... to structurally rigid ... sheets of *foam* ..." (col. 1, ll. 6-10). This "theme" of providing insulating sheathing based on a foam core is repeated throughout the entire patent. For example, reference is made to the following passages:

- X "[i]t would be highly desirable if a *foam* insulation board could be produced with facers ... [to] contribute overall good properties to the *foam* board" (col. 1, ll. 49-52);
- X "[i]t is an object of the present invention to produce a rigid *foam* insulation board" (col. 1, ll. 55-56);
- X "[i]t is a further object of the invention to produce a rigid *foam* laminate" (col. 1, ll. 62-63);
- X "[t]he above objects have been achieved ... [by] the present invention which utilizes a laminate facing sheet ... in the production of a *faced foam laminate*" (col. 2, ll. 15-16).

These passages represent but a few examples of the emphasis placed on providing an insulator having a rigid foam core in this patent. Indeed, although

it discloses various types of foam products, no other type of "core" material besides foam is described.

In contrast, claim 1 requires a fibrous polymer based blanket layer (which is obviously not a "foam"), an insert encapsulated by this layer, and a fibrous facing material. From the outset, the Examiner has essentially conceded that Lynn et al. teaches neither an insulation insert nor a fibrous polymer based blanket layer (see Office Action of April 9, 2002 (Paper #6), page 3, last paragraph). This means that Lynn et al. is ostensibly cited only for its teaching of providing a foam core with a facing, a practice obviously known before 1998 (see col. 1, line 21 of this patent).

The Examiner contends that the Nelson patent teaches a fibrous "polymer blanket material" in combination with an insert in the form of a "barrier pad 48" of "loaded vinyl, loaded asphalt, or asphalt impregnated felt" (col. 9, ll. 12-17). Yet, it is implicitly acknowledged that this reference lacks the necessary teaching to arrive at the combination presently being claimed; namely, an insulator with a fibrous facing layer. Even if Lynn et al. were to propose such a facing layer, nothing expressly teaches applying a fibrous polymer based blanket layer and inserting it into the laminated rigid foam core with a particular type of trilaminate facing serving as the focus of that patent.

The Examiner indicates it would be obvious to do so by dispensing with the need for objective evidence on this point (at least up to the point of the final Office Action) and speculating that a skilled artisan clearly would have been motivated to make this combination “to provide improved noise, vibration, and heat insulation in a single insulation pad” (Paper 6, *supra*, p. 3). An important point to consider, though, is that the application corresponding to the Nelson patent existed about ten years before the one for the Lynn et al. patent (thus establishing the state of the art at that time), and issued more than seven years before it. Despite the availability of this reference to the skilled artisans who invented the foam insulation disclosed in the Lynn et al. patent, no mention is made of providing any form of insulation insert, period (and the Examiner does not cite to any other reference as suggesting this combination).

This is the case for one simple reason: reinforcing a rigid foam core with an insert is considered unnecessary and undesirable to “provide improved noise, vibration, and heat insulation” (Paper 6). The simplest approach to achieve these benefits is, of course, to make the foam thicker, rather than trying to incorporate an insert for this purpose. The Lynn et al. patent favors this approach (see col. 5, lines 34-41 and Table II at col. 9 bridging to col. 10), and thus fails to provide the requisite suggestion or motivation to add the barrier pad disclosed in the Nelson patent. Appellant’s claimed approach differs

radically because it does not use a rigid foam core, but rather combines a fibrous polymer based blanket layer with an insulation insert formed of a select group of materials and a fibrous facing material, a combination of structures not disclosed, taught, or suggested in the known prior art.

A second, perhaps more important consideration is the emphasis placed on the rigidity of the foam throughout the Lynn et al. patent (including foam made of "rigid cellular polymers"; col. 5, l. 47). Accordingly, "encapsulating" an insert necessarily involves positioning it between the rigid foam core and the three-ply facing layer. Aside from the obvious aesthetic detraction from the bumpy and irregular appearance created, the resulting assembly would include a non-homogeneous, raised portion. The resulting laminate would also leave the incredibly thin facing layer (0.3 mils to 5 mils, or three thousandths of an inch to five hundredths of an inch, in which range the average thickness of a human hair falls) susceptible to puncture or tearing at the margins of the insert.

Resistance to puncturing and tearing is precisely the problem with prior art foam insulation boards the invention of the Lynn et al. patent seeks to overcome by providing an insulation board with "outstanding toughness" (col. 1, l. 50). The proposed modification necessary to arrive at the invention of claim 1 would thus require a complete redesign of the Nelson insulator and

otherwise render it unsatisfactory for its intended purpose, both of which are indicia of non-obviousness. *See* MPEP § 2143.02 (8th ed., Rev. 1, 2003) and *In re Ratti* 123 USPQ 349 (CCPA 1959) (“w]e hold, further, that the combination of [references] . . . is not a proper ground for rejection of the claims here on appeal. This suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [reference 1] as well as a change in the basic principles under which the . . . construction was designed to operate. Once appellant had taught how this could be done, the redesign may, by hindsight, seem to be obvious to one having ordinary skills. . . . However, when viewed as of the time appellant’s invention was made, and without the benefit of appellant’s disclosure, we find nothing in the art of record which suggest appellant’s novel [invention] . . .”).

Indeed, instead of suggesting the use of an insert, the Lynn et al. patent substitutes three-ply facers for application to the outer surfaces of the rigid foam to provide “toughness,” with the foam providing the resistance to heat, noise, and vibration. The Examiner further fails to explain in a convincing fashion why a skilled artisan would want to use the barrier pad of the Nelson patent in the Lynn et al. patent, when: (1) the enhancement allegedly desired is already achieved by the novel three-ply facers used; and (2) this would not be desirable at all and simply detracts from the more efficient approach proposed.

Contrariwise, no convincing explanation is provided as to why a skilled artisan would want or otherwise be motivated to use the facings of Lynn et al. in combination with the different type of insulator disclosed in the Nelson patent. Taken together, this means that a *prima facie* case of obviousness is lacking with respect to claim 1.

With respect to these last points, it should again be recognized that the Nelson patent with its insulator was known many years before the Lynn et al. patent application was filed, and that the latter is concerned with improving the toughness of known foam insulation boards with facers. Despite the availability of the Nelson approach to improving insulators at the time the Lynn et al. application was filed, the latter fails to mention it as a possibility. Moreover, despite the lengthy period since the issuance of the Nelson patent, the Examiner remains unable to find a reference which provides a teaching or suggestion of making the combination proposed by the present Appellant. Rather than suggesting the ease with which the various structures could be combined or the desirability of doing so, the fact that others have independently known of insulation inserts for a long time but have failed to make or suggest the claimed combination with an insulator including a fibrous facing material is a strong indicia of non-obviousness that simply cannot be ignored. See *Arkie Lures Inc. v. Gene Larew Tackle Inc.*, 43 USPQ2d 1294

(Fed. Cir. 1997) (holding that “the years of use of [element 1] and of [element 2], without combining their properties, weighs on the side of unobviousness of the combination.”). For the foregoing reasons, the rejection of claim 1 on obviousness grounds should be reversed, as should the rejections of claims 2-7 and 9-19 as being dependent on an allowable base claim.

In the final Office Action, new reliance is made on a published PCT application to Andersson (WO 97/17508), which allegedly qualifies as the requisite “objective evidence” of the motivation to combine the Lynn et al. and Nelson patents. As the Examiner admits, however, the teachings of Andersson (just like the Lynn et al. patent) are limited to “*foam* composite blanket layers” and a cork layer “*not encapsulated by the foam layers*” (see final Office Action (Paper 7), page 5, lines 2-8; emphasis added). This cork *layer* is not an insert (let alone an “encapsulated” one), and this reference nowhere mentions the combination of a fibrous blanket layer and first layer in an insulator including an encapsulated insert. Furthermore, like the Lynn et al. patent, enhanced surface rigidity is the focus of the Andersson reference (see, e.g., the Abstract and page 4, line 8), which is deleterious for the various reasons noted in Appellant’s specification and in the prior responses made. Accordingly, this reference cannot possibly qualify as the requisite “objective evidence” of a motivation to combine the teachings of the primary and secondary references

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cited in rejecting claim 1 on obviousness grounds. Indeed, it seemingly adds nothing more pertinent than what is found in the Lynn et al. patent.

Claim 6 depending from claim 1 and rejected on the same grounds also patentably distinguishes over the combination of the Lynn et al. and Nelson patents. More specifically, this claim describes the fibrous polymer based blanket layer selected from a group of various materials. The primary reference to Lynn et al. refers to foam materials, not fibrous materials as claimed. Accordingly, the rejection of this claim is improper and should be reversed.

Dependent claims 3-5 also patentably distinguish over a combination of the Lynn et al. and Nelson patents cited above even when considered in further view of U.S. Patent No. 4,438,166 to Gluck et al. In accordance with the Examiner's comments, the Gluck et al. patent discloses a metallic foil reinforced with a fibrous scrim, a fibrous mat or a fibrous web consisting of glass fiber threads in a criss-cross pattern (Office Action of April 9, 2002 (Paper 6), page 5, second full paragraph). The Gluck patent, however, fails in any manner to address the shortcomings noted above with respect to the teachings of the primary reference to Lynn et al. and the secondary reference to Nelson which prevent that combination from forming a valid basis for the rejection of claim 1 from which claims 3-5 depend. Simply stated, the

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references do not lead one skilled in the art to provide an insulation insert of the material claimed encapsulated by a fibrous facing material layer and a fibrous polymer based blanket layer (let alone one including a heat reflective metallic foil associated with or reinforced by a fibrous first facing layer). Accordingly, claims 3-5 patentably distinguish over the prior art and should be held allowable.

The invention of dependent claim 7 patentably distinguishes over the Lynn et al. and Nelson patents when considered in combination with U.S. Patent 5,366,678 to Nomizo et al. In accordance with the Examiner's comments, the Nomizo et al. patent discloses a compression molding process to control the density and hardness of specific regions of a product (in that case, a seat cushion). The Nomizo et al. patent, like the Gluck et al. patent, does not incorporate any form of insulation insert, and otherwise does not relate to the type of insulator set forth in claim 7. Accordingly, it cannot provide the teachings missing from the Lynn et al. and Nelson patents noted above, and thus fails to provide appropriate support for a rejection of claim 7.

Dependent claims 11 and 13 also recite inventions that distinguish over the Lynn et al. and Nelson patents when considered in combination with U.S. Patent 6,096,416 to Altenberg. The Altenberg patent merely discloses a facing layer including a scrim in an insulating panel for the purpose of providing

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improved mechanical properties and flame resistance. However, it does not include any form of encapsulated insulation insert. Accordingly, this tertiary reference does not address the shortcomings noted above with respect to the combination of the primary reference to Lynn et al. and the secondary reference to Nelson. Moreover, the proposed three-way combination of references does not teach or suggest the provision of an acoustical or thermal insulator having an insulation insert encapsulated by a fibrous facing material layer and a fibrous polymer based blanket layer, as claimed. Thus, the combination of references does not provide a proper basis for the rejection of claims 11 and 13 under 35 Section 103(a). This means that the rejections of these claims should be reversed.

Depending from claim 1, claim 18 requires a second insulation insert adjacent to the other (first) insert. The contention made in the final Office Action that this invention is unpatentable as a "mere duplication of essential working parts of a device" that involves only routine skill. As legal support for this assertion, the Examiner cites to *St. Regis Paper Co. v. Bemis Co.*, 549 F.2d 833 (7th Cir. 1977), a non-precedential decision never followed by this Board or the Court of Appeals for the Federal Circuit. It is also admitted that neither the Nelson nor Lynn et al. patents disclose an insulator with first and second insulation inserts, as claimed.

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The invention of claim 18 involves more than the mere duplication of "essential working parts." Rather, as emphasized in the present specification, an insulator including multiple inserts shields heat sources with multiple hot spots requiring extra thermal protection, or sound transmitting or generating components having multiple sources of strong sounds which might otherwise annoy the operator and passengers of the vehicle. Yet, using multiple inserts as claimed allows the insulator to achieve these important objectives without a significant increase in bulk or decrease in flexibility. As admitted by the Examiner, neither of the cited references disclose this combination and, therefore, cannot possibly achieve this result. Accordingly, they cannot render the invention of claim 18 unpatentable, either.

As for claim 19, the Examiner again admits in the final Office Action that the structure allegedly qualifying as an "insulation insert" 48 (Fig. 3) in the Nelson patent is "essentially flat." Nevertheless, consistent with the ostensible goal of refusing to allow even a single claim for this invention, the Examiner stretches the teachings of the Nelson patent by contending that the mention of providing a vibration barrier pad having a "pre-selected size and contour" means it would be "obvious" to provide an insert having the claimed "recessed portion." The decision of *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA

1966) is also cited for the proposition that a change in *shape* involves only routine skill in the art.

The *non sequitur* is that claim 18 recites a different *structure*, not just a change in shape. In other words, the insert is not merely identified as being round, square, triangular, or “less than hemispherical” as in the *Dailey* case (when the prior art was hemispherical). Instead, it includes a physical feature (“a recessed portion”) for an insert not otherwise found in the prior art, which the Examiner readily admits. This recessed portion advantageously allows the insulator to match with an adjacent structure for which enhanced protection from heat or sound transmission, which the prior art also fails to contemplate.

As observed by dissenting Judge Smith in the *Dailey* decision:

[the majority uses] the fallacious logic that since each of the words in Lincoln's “Gettysburg Address” were individually old and well known at the time he used them, it would have been obvious for anyone of ordinary skill with a dictionary before him, to have written it. It is this logic which supports the conclusion . . . that today with “The Gettysburg Address” before him, it would be obvious for any school boy to select the same words and place them in the same order.

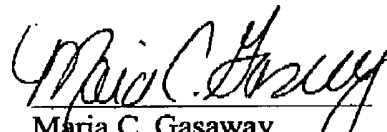
Id. at 673. It would not have been “obvious” to provide an insulation insert with a recessed portion, as set forth in claim 19, when the prior art fails to mention this feature.

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In light of the foregoing, Appellant respectfully asks the Board to reverse all extant rejections and allow a patent to issue for the subject matter of claims 1-7 and 9-19.

Respectfully submitted,


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Registration No. 51,721

Date

6/30/04

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IX. APPENDIX

The claims on Appeal read as follows:

1. (Twice Amended) An acoustical and thermal insulator, comprising a multilayer composite including (a) a fibrous first facing material layer, (b) a fibrous polymer based blanket layer and (c) an insulation insert encapsulated by said first facing material layer and said fibrous polymer based blanket layer, said insulation insert being constructed from a material selected from a group consisting of fiberglass, foam, polymer based blanket material, natural fiber based blanket material and combinations thereof.
2. (Original) The insulator of Claim 1, wherein said first facing layer is constructed from a heat reflective metallic foil having a thickness of between substantially 0.5-5.0 mil.
3. (Original) The insulator of Claim 2, wherein said metallic foil includes a reinforcement.
4. (Original) The insulator of Claim 3, wherein said metallic foil reinforcement is selected from a group of materials consisting of a fibrous scrim, a fibrous mat and a fibrous web.
5. (Original) The insulator of Claim 4, wherein said reinforcement is made from glass fiber threads arranged in a criss-cross pattern.

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6. (Previously Presented) The insulator of Claim 1, wherein said fibrous polymer based blanket layer is selected from a group of materials consisting of polyester, polyolefin, polyethylene, cotton shoddy, nylon, rayon, acrylic, natural fibers including kenaf and hemp, and combinations thereof with and without melt blown microfibers.

7. (Previously Presented) The insulator of Claim 1, wherein said fibrous polymer based blanket layer includes a relatively high density section and a relatively low density section.

8. (Cancelled).

9. (Previously Presented) The insulator of Claim 1, wherein said insulation insert is positioned only at selected locations in said insulators to provide shielding of heat sources and/or sound sources.

10. (Original) The insulator of Claim 1, further including a second facing layer.

11. (Original) The insulator of Claim 10, wherein said second facing layer includes a scrim.

12. (Original) The insulator of Claim 10, wherein said second facing layer is selected from a group of materials consisting of polyester, polypropylene, rayon, nylon, glass, metal foil and mixtures thereof.

13. (Original) The insulator of Claim 11, wherein said first facing layer and/or second facing layer is treated with a fire retardant, a biocide and/or a colorant.

14. (Previously Presented) The insulator of Claim 1, wherein said first facing layer includes a heat activated adhesive to secure said first facing layer to said fibrous polymer based blanket layer.

15. (Original) The insulator of Claim 12, wherein said heat activated adhesive is selected from a group of materials consisting of thermoplastic sheet, thermoplastic web, hot melt, latex and heat activated resins.

16. (Previously Presented) The insulator of Claim 10, wherein said second facing layer includes a heat activated adhesive to secure said second facing layer to said fibrous polymer based blanket layer.

17. (Original) The insulator of Claim 16, wherein said heat activated adhesive is selected from a group of materials consisting of thermoplastic sheet, thermoplastic web, hot melt, latex and heat activated resins.

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18. (Previously Presented) The insulator according the Claim 1, wherein the insulation insert is a first insulation insert, and further including a second insulation insert encapsulated by said first facing material layer and said fibrous polymer based blanket layer adjacent to the first insulation insert.

19. (Previously Presented) The insulator according the Claim 1, wherein the insulation insert includes at least one recessed portion adapted for matching with an adjacent structure for which enhanced protection from heat or sound transmission is desired.